

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
	)	CRIMINAL NO. 04-CR-10167-RCL
)	
v.	)	VIOLATIONS:
)	
(1) ADAM ELLARD	)	21 U.S.C. § 846 -
(2) TROY BREWER	)	Conspiracy to Possess with Intent
(3) TIMOTHY HERLIHY	)	to Distribute, and to Distribute,
Defendants.	)	Hydrocodone
)	
	)	21 U.S.C. § 841(a)(1) -
	)	Possession With Intent To
	)	Distribute and Distribution of
	)	Hydrocodone
)	
	)	18 U.S.C § 2 -
	)	Aiding and Abetting
)	
)	
	)	21 U.S.C. § 853 -
	)	Criminal Forfeiture Allegation

SUPERSEDING INDICTMENT

COUNT ONE: (21 U.S.C. § 846 - Conspiracy to Possess with Intent to Distribute and to Distribute Hydrocodone)

The Grand Jury charges that:

On or about March 3, 2004, at Revere and elsewhere in the District of Massachusetts,

1. ADAM ELLARD
2. TROY BREWER, and
3. TIMOTHY HERLIHY

defendants herein, did knowingly and intentionally combine, conspire, confederate, and agree with each other, and with other persons unknown to the Grand Jury, to distribute, and to possess

with intent to distribute, hydrocodone, a Schedule III controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Section 846.

COUNT TWO: (21 U.S.C. §841(a)(1) - Possession with Intent to Distribute and Distribution of Hydrocodone; 18 U.S.C. § 2 - Aiding and Abetting)

The Grand Jury further charges that:

On or about March 3, 2004, at Revere, in the District of Massachusetts,

1. ADAM ELLARD,
2. TROY BREWER, and
3. TIMOTHY HERLIHY,

defendants herein, did knowingly and intentionally distribute, and possess with intent to distribute, hydrocodone, a Schedule III controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION: (21 U.S.C. § 853)

The Grand Jury further charges that:

1. As a result of the offenses alleged in Counts 1 and 2 of this Indictment,

1. ADAM ELLARD,
2. TROY BREWER, and
3. TIMOTHY HERLIHY,

defendants herein, shall forfeit to the United States any and all property constituting, or derived from, any proceeds the defendants obtained, directly or indirectly, as a result of such offenses; and/or any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, any such violations.

2. If any of the property described in paragraph 1, above, as a result of any act or omission of the defendants -

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property described in paragraph 1.

All in violation of Title 21, United States Code, Section
853.

NOTICE OF ADDITIONAL FACTORS

The Grand Jury further finds that:

1. As to the offenses charged in Counts One and Two of this indictment and relevant conduct as described in U.S.S.G. § 1B1.3, the Defendant ADAM ELLARD is accountable for a quantity of hydrocodone that, when converted to marijuana as provided by USSG §2D1.1 (drug equivalency table), is equivalent to at least 250 grams of marijuana but less than 1 kilogram of marijuana. Accordingly, USSG §2D1(c)(16) applies to this defendant.

2. The defendant ADAM ELLARD, at the time of the offenses charged in this indictment, was a career offender. Accordingly, USSG §4B1.1 applies to this defendant.

3. The Defendant ADAM ELLARD was an organizer, leader, manager, and supervisor of the criminal activity charged in this indictment. Accordingly, USSG §3B1.1(c) applies to this defendant.

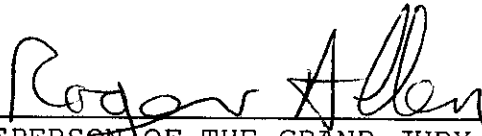
4. As to the offenses charged in Counts One and Two of this indictment and relevant conduct as described in U.S.S.G. § 1B1.3, the Defendant TROY BREWER is accountable for a quantity of hydrocodone that, when converted to marijuana as provided by USSG §2D1.1 (drug equivalency table), is equivalent to at least 250 grams of marijuana but less than 1 kilogram of marijuana. Accordingly, USSG §2D1(c)(16) applies to this defendant.

5. The defendant Troy Brewer, at the time of the offenses

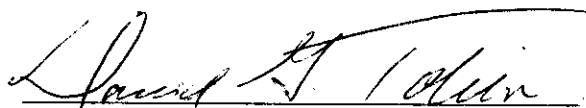
charged in this indictment, was a career offender. Accordingly, USSG §4B1.1 applies to this defendant.

6. As to the offenses charged in Counts One and Two of this indictment and relevant conduct as described in U.S.S.G. § 1B1.3, the Defendant TIMOTHY HERLIHY is accountable for a quantity of hydrocodone that, when converted to marijuana as provided by USSG §2D1.1 (drug equivalency table), is equivalent to at least 250 grams of marijuana but less than 1 kilogram of marijuana. Accordingly, USSG §2D1(c)(16) applies to this defendant.

A TRUE BILL



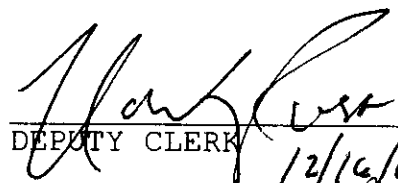
FOREPERSON OF THE GRAND JURY



DAVID G. TOBIN
Assistant U.S. Attorney

DISTRICT OF MASSACHUSETTS; December __, 2004.

Returned into the District Court by the Grand Jurors and
filed.



DEPUTY CLERK
12/16/04
at 3:55pm

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: _____ Category No. II Investigating Agency DEACity Boston**Related Case Information:**County SuffolkSuperseding Ind./ Inf. X Case No. 04CR10167RCL
Same Defendant X New Defendant _____
Magistrate Judge Case Number 04-822-MBB
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name Timothy Herlihy Juvenile: ☐ Yes ☒ No

Alias Name _____

Address 19 Tibbette Street, Danvers, MABirthdate: 1973 SS # 9652 Sex: Male Race: Caucasian Nationality USADefense Counsel if known: Matthew A. Kamholtz, Esq. Address 125 Summer StreetBar Number _____ Boston, MA**U.S. Attorney Information:**AUSA Michael J. Pelgro; David G. Tobin Bar Number if applicable _____Interpreter: ☐ Yes ☒ No

List language and/or dialect: _____

Matter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested☒ Regular Process

In Custody

Location Status:Arrest Date April 15, 2004☐ Already in Federal Custody as of _____ in _____☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☒ On Pretrial Release: Ordered by: Chief USMJ Bowler on April 20, 2004Charging Document: Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 2 counts

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: May 27, 2004Signature of AUSA: David G. TobinDec 16, 2004

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Timothy Herlihy

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>21/846</u>	<u>Conspiracy To Distribute Hydrocodone</u>	<u>One</u>
Set 2	<u>21/841(a)(1)</u>	<u>Distribution of Hydrocodone/Aiding & Abetting</u>	<u>Two</u>
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: _____ Category No. II Investigating Agency DEACity Boston

Related Case Information:

County SuffolkSuperseding Ind./ Inf. X Case No. 04CR10167RCL
Same Defendant X New Defendant _____
Magistrate Judge Case Number 04-822-MBB
Search Warrant Case Number _____
R 20/R 40 from District of _____

Defendant Information:

Defendant Name Adam Ellard Juvenile: ☐ Yes ☒ No

Alias Name _____

Address Shepton Street, Dorchester, MABirthdate: 1972 SS # 9734 Sex: Male Race: Caucasian Nationalit USADefense Counsel if known: James J. Coviello, Esquire Address 281 Beach StreetBar Number _____ Revere, MA

U.S. Attorney Information:

AUSA Michael J. Pelgro; David G. Tobin Bar Number if applicable _____Interpreter: ☐ Yes ☒ No List language and/or dialect: _____Matter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested ☐ Regular Process ☒ In Custody

Location Status:

Arrest Date April 12, 2004☒ Already in Federal Custody as of April 13, 2004 in USMS☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: _____ on _____Charging Document: Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 2 counts

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: May 27, 2004 Signature of AUSA: David G. Tobin
Dec 16, 2004

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Adam Ellard

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>21/846</u>	<u>Conspiracy To Distribute Hydrocodone</u>	<u>One</u>
Set 2	<u>21/841(a)(1)</u>	<u>Distribution of Hydrocodone</u>	<u>Two</u>
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: _____ Category No. II Investigating Agency DEACity Boston**Related Case Information:**County SuffolkSuperseding Ind./ Inf. DO NOT

Same Defendant _____

New Defendant _____

Magistrate Judge Case Number _____

04-822-MBB

Search Warrant Case Number _____

R 20/R 40 from District of _____

Case No. 04CR10167RCL**Defendant Information:**Defendant Name Troy Brewer Juvenile: ☐ Yes ☒ No

Alias Name _____

Address 22 Malden Street, Everett, MABirthdate: 1967 SS # 1928 Sex: Male Race: Black Nationalit USADefense Counsel if known: Unknown Address _____

Bar Number _____

U.S. Attorney Information:AUSA Michael J. Pelgro; David G. Tobin Bar Number if applicable _____Interpreter: ☐ Yes ☒ No List language and/or dialect: _____Matter to be SEALED: ☐ Yes ☒ No☒ Warrant Requested☐ Regular Process

In Custody

Location Status:

Arrest Date _____

☐ Already in Federal Custody as of _____ in _____☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: _____ on _____Charging Document: Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 2 counts

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: May 27, 2004Signature of AUSA: David G. TobinDec 16, 2004

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Troy Brewer

U.S.C. Citations		
<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1 <u>21/846</u>	<u>Conspiracy To Distribute Hydrocodone</u>	<u>One</u>
Set 2 <u>21/841(a)(1) and 18/2</u>	<u>Distribution of Hydrocodone/Aiding & Abetting</u>	<u>Two</u>
Set 3 _____	_____	_____
Set 4 _____	_____	_____
Set 5 _____	_____	_____
Set 6 _____	_____	_____
Set 7 _____	_____	_____
Set 8 _____	_____	_____
Set 9 _____	_____	_____
Set 10 _____	_____	_____
Set 11 _____	_____	_____
Set 12 _____	_____	_____
Set 13 _____	_____	_____
Set 14 _____	_____	_____
Set 15 _____	_____	_____

ADDITIONAL INFORMATION: _____

